

JAP:HLJ

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

M-10-262

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UNITED STATES OF AMERICA

COMPLAINT

- against -

RADCLIFFE LLEWELLYN,
also known as
"Barry Llewellyn",
"Radcliff Llewellyn",
"Mark Miller" and
"Tyshawn Johnson,"

(T. 8, U.S.C.,
§§ 1326(a) and
1326(b)(2))

Defendant.

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EASTERN DISTRICT OF NEW YORK, SS:

ANTOINETTE GUZMAN, being duly sworn, deposes and states that she is a Deportation Officer with United States Immigration and Customs Enforcement ("ICE"), duly appointed according to law and acting as such.

On or about March 15, 2009 within the Eastern District of New York and elsewhere, the defendant RADCLIFFE LLEWELLYN, also known as "Barry Llewellyn", "Radcliff Llewellyn", "Mark Miller" and "Tyshawn Johnson," being an alien who had previously been arrested and convicted of an aggravated felony, and was thereafter excluded and removed from the United States, and who had not made a re-application for admission to the United States to which the Secretary of the Department of Homeland Security,

successor to the Attorney General of the United States, had expressly consented, was found in the United States.

(Title 8, United States Code, Section 1326(b)(2))

The source of your deponent's information and the grounds for her belief are as follows:^{1/}

1. I am a Deportation Officer with ICE and have been involved in the investigation of numerous cases involving the illegal re-entry of aliens. I am familiar with the facts and circumstances set forth below from my participation in the investigation; my review of the ICE investigative file, including the defendant's criminal history record; and from reports of other law enforcement officers involved in the investigation.

2. On or about March 15, 2009, the defendant, RADCLIFFE LLEWELLYN, also known as "Barry Llewellyn", "Radcliff Llewellyn", "Mark Miller" and "Tyshawn Johnson," was arrested by the New York City Police Department ("NYPD"), 77th Precinct, in Brooklyn, New York. LLEWELLYN was stopped for Urinating on the Sidewalk, in violation of New York City Administrative Code 16-118.6. The defendant was arrested in connection with this violation. The defendant used the name "Mark Miller" in connection with his arrest.

^{1/} Because the purpose of this Complaint is to set forth only those facts necessary to establish probable cause to arrest, I have not described all of the relevant facts and circumstances of which I am aware.

3. Subsequent to the arrest, the NYPD ran a criminal history report and found that the defendant, a citizen of Jamaica, had been previously removed from the United States on May 24, 2007.

4. The NYPD notified ICE, and ICE officials determined that on or about February 14, 2002, the defendant, RADCLIFFE LLEWELLYN, also known as "Barry Llewellyn", "Radcliff Llewellyn", "Mark Miller" and "Tyshawn Johnson," had been convicted of Kidnapping in the Second Degree, in violation of Sections 135.20 of the New York State Penal Law, an aggravated felony offense. The defendant used the name "Radcliffe Llewellyn" in connection with his arrest.

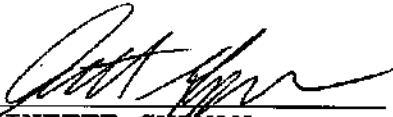
5. ICE officials also determined that on or about May 24, 2007, the defendant, RADCLIFFE LLEWELLYN, also known as "Barry Llewellyn", "Radcliff Llewellyn", "Mark Miller" and "Tyshawn Johnson," had been removed from the United States pursuant to an Order of Removal dated August 16, 2002.

6. An ICE official with fingerprint analysis training compared the fingerprints taken in connection with the defendant's arrest underlying his February 14, 2002 conviction; the fingerprints taken in connection with the defendant's May 24, 2007 removal; and the fingerprints taken by ICE on February 16, 2010, when the defendant was transferred from NY State Custody to

ICE custody,^{2/} and determined that all three sets of fingerprints were made by the same individual.

7. A search of ICE records has revealed that there exists no request by the defendant for permission from either the United States Attorney General or the Secretary of the Department of Homeland Security to re-enter the United States after removal.

WHEREFORE, your deponent respectfully requests that the defendant RADCLIFFE LLEWELLYN, also known as "Barry Llewellyn", "Radcliff Llewellyn", "Mark Miller" and "Tyshawn Johnson," be dealt with according to law.


ANTOINETTE GUEGAN
Deportation Officer
United States Immigration and
Customs Enforcement

Sworn to before me this
15th day of March, 2010

THE HONORABLE ANDREW L. CARTER
UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK

² The fingerprints taken in connection with the defendant's March 15, 2009 violation are no longer available. Accordingly, upon the defendant's release from NY State custody into ICE custody, his fingerprints were taken again and used for the purposes of this comparison.